

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JESUS ROSALES-LEON,

Petitioner,

v.

MICHAEL CHERTOFF, et al.,

Respondents.

CASE NO. C07-871-RSM-MJB

REPORT AND RECOMMENDATION


Petitioner Jesus Rosales-Leon is a native and citizen of Mexico who is currently being detained by the U.S. Immigration and Customs Enforcement (“ICE”), pending his removal proceedings. On June 6, 2007, petitioner, proceeding through counsel, filed a “Complaint for Declaratory and Injunctive Relief and Petition for Writ of Habeas Corpus,” pursuant to 28 U.S.C. § 2241. (Dkt. #1). Petitioner asserts that he was informed on June 6, 2007, that ICE intends to temporarily transfer him from the Northwest Detention Center in Tacoma, Washington to a separate facility in Union Town, Alabama for at least 30 days. Petitioner argues that the transfer would have a substantial detrimental result on petitioner’s ability to prepare his application for section 212(c) relief by the June 22, 2007 deadline, and would further impact his ability to prepare for trial on August 22, 2007. Petitioner seeks an order from this Court preventing his transfer to Alabama. Along with his habeas petition, petitioner also filed a

1 motion for temporary restraining order to prevent his transfer to Alabama. (Dkt. #2). On June  
2 6, 2007, the Court denied the motion, concluding that petitioner had failed to demonstrate a  
3 probability of success on the merits and the possibility of irreparable injury, or that serious legal  
4 questions were raised and the balance of hardship tips sharply in petitioner's favor. (Dkt. #3).  
5 The Court further concluded that petitioner provided no argument or legal authority showing  
6 that the Court had any authority to enter the relief petitioner requested. *Id.*

7  
8 On July 10, 2007, respondents filed a Return Memorandum and Motion to Dismiss, and  
9 a Declaration of deportation officer Sylvie Lobato, indicating that ICE no longer intends to  
10 transfer petitioner to Alabama. (Dkt. #10, Ex. A). Respondents assert that because they no  
11 longer intend to transfer petitioner, his habeas petition should be dismissed as moot. Petitioner  
12 did not file a response to respondents' motion to dismiss.

13 Because respondents have verified that they no longer intend to transfer petitioner to  
14 Alabama, the Court finds that petitioner's habeas petition should be dismissed as moot. *See,*  
15 *e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9<sup>th</sup> Cir. 1992)(holding that the District Court  
16 properly dismissed plaintiff's claims that had become either moot or unripe). Accordingly, I  
17 recommend that respondents' motion to dismiss be granted (Dkt. #10), and that this action be  
18 dismissed without prejudice. A proposed Order accompanies this Report and Recommendation.

19 DATED this 6<sup>th</sup> day of August, 2007.

20  
21 

22 Monica J. Benton  
23 U.S. Magistrate Judge  
24  
25